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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,944	12/07/2001	Gerard Henricus Broeksteeg	PHNL 000737	7469

24737 7590 10/22/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

RAMPURIA, SATISH

ART UNIT PAPER NUMBER

2124

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,944

Applicant(s)

BROEKSTEEG ET AL.

Examiner

Satish S. Rampuria

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/19/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the application filed on 12/07/2001.
2. Claims 1-13 are pending.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copies have been received on 12/07/2001.

Information Disclosure Statement

4. An initialed and dated copy of Applicant's IDS form 1449 filed on 9/16/2002 is attached to the instant Office action.

The content of information disclosure statement received on 9/16/2002 for foreign patent document is not considered because an English translation was not filed and was not available to the examiner. For the full document consideration a full English translation is requested.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature/labels of the invention specified in the claims. Therefore, the flowchart of the process must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one

figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are non-statutory because they recite only software components of updating a software, representing functional descriptive material without a computer readable medium or

computer implemented, program per se are not tangibly embodied. Claims 1-9 thus amounts to only abstract idea and are nonstatutory.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-6 and 8-13 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,301,710 to Fujiwara (hereinafter called Fujiwara).

Per claim 1:

Fujiwara disclose:

- A method of updating software (116) (col. 2, line 32-33 “automatically installing an update program”) by replacing an original part of the software (116) by an updated part (col. 8, lines 46-48 “update program... contain replacement program instructions to update other software program”), the software being arranged to operate at least partly under the control of configuration information (118) (col. 8, lines 26-28 “information file... contain information related to the configuration and functionality of either client 120 or update program”), the method comprising:

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- reading (304) the configuration information (col. 2, lines 65-67 “reads an information file... update program, and responsively updates client computer configuration files”),
- converting (306) the configuration information (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program”).

Although, Fujiwara teach provide the update of software to a computer. Fujiwara is silent on storing the converted configuration information, and storing the updated part in the memory. However, this feature deemed to be inherent to the Fujiwara system, Fujiwara system shows updating a software with update of registry information and informing the user for the update via browser col. 3, lines 8-16. Fujiwara system would in inoperative if the converted format is not compatible and not stored in the memory of client device.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- wherein converting the configuration information comprises converting an original set (206) with original configuration parameters into an updated set (210) with updated configuration parameters (col. 2, lines 65-67 “The install... updates client computer configuration files to reflect new parameters and requirements corresponding to the update program”).

Per claims 3 and 4:

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

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- copying one of the original configuration parameters into the updated set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- deleting one of the original configuration parameters from the original set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- converting one of the original configuration parameters of the original set into one of the updated configuration parameters of the updated set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- adding a new configuration parameter as one of the updated configuration parameters of the updated set (col. 4, lines 4-5 “create unique substitute registries that correspond to the downloaded update programs”).

Per claim 5:

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

- wherein the original set (206) is located in a first file (118) accessible by the original part (116) of the software and the updated set (210) is located in a second file (128) accessible by the updated part (col. 9, lines 17-19 “advantageously creates substitute registry 825 based on information obtained from information file 510 of download file 420”. Also, figs. 8(a) to 8(b) and related discussion).

Per claim 6:

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

- wherein converting the original set (206) with the original configuration parameters into the updated set (210) with the updated configuration parameters is carried out on the basis of a conversion instruction (302) specifying how the original set is to be converted into the updated set (col. 5, lines 11-14 “automatically installs the downloaded software programs to replace outdated versions of existing software programs, or, alternately, to install new software programs that become necessary for use by client 120”).

Per claims 8 and 9:

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- wherein the software (116) resides in a device (102) and wherein the updated part of the software is downloaded from a remote location (106) to the device (col. 7, lines 56-58 “network page 410 and download file 420 preferably are located on one or more network servers (not shown) within network 100”. Also, fig. 6 and related discussion).

Claims 10-13 are the computer program product claim corresponding to method claim 1 and rejected under the same rational set forth in connection with the rejection of claim 1 above.

Substantially as claimed.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiwara in view of US Patent No. 6,425,125 to Fries et al. (hereinafter called Fries).

Per claim 7:

The rejection of claim 6 is incorporated, and further, Fujiwara does not explicitly disclose wherein the conversion instruction is a table.

However, Fries discloses in an analogous computer system wherein the conversion instruction is a table (col. 1, lines 60-67 "upgrade server derives a two-dimensional table... each entry represents a length of a longest common sub string beginning at a first position in the old character string and at a second position in the new character string... upgrade server... ascertains the longest common string from the table").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of converting string/instructions using a table as taught by Fries into the method of updating software as taught by Fujiwara. The modification would be obvious because of one of ordinary skill in the art would be motivated to use the table while updating software to provide efficient transfer of instruction with using less memory for thin clients as suggested by Fries (col. 1, lines 32-35).

Conclusion

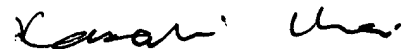
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **703-305-8891**. The examiner can normally be reached on **8:30 am to 5:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kakali Chaki** can be reached on **(703) 305-9662**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Satish S. Rampuria
Patent Examiner
Art Unit 2124
10/18/2004



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